



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/174406

PRELIMINARY RECITALS

Pursuant to a petition filed May 17, 2016, under Wis. Admin. Code, §DHS 10.55, to review a decision by the MY Choice Family Care to discontinue Family Care Program (FCP) services, a hearing was held on June 2, 2016, at Milwaukee, Wisconsin, with the parties appearing by telephone.

The issue for determination is whether the agency correctly reduced petitioner's FCP services following a reassessment.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
MY Choice Family Care
901 N. 9th St.
Milwaukee, WI 53233

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner has been eligible for Family Care. The agency conducted an annual rescreen on May 3, 2016. Following the rescreen the agency was informed that petitioner no longer met the nursing home level of care. By a notice dated May 3, 2016, the agency informed petitioner her level of care was changed from nursing home level of care to non-nursing home level of care.

3. On May 4, 2016, the agency sent a second notice telling petitioner that day care services, supportive home care services, and non-medical transportation would be terminated May 19 because her level of care had changed and those services are not within the package for her current level of care. Services were continued pending this decision.

DISCUSSION

Because petitioner's level of care was changed from nursing home to non-nursing home, the services at issue would have to be discontinued because the non-nursing home package excludes those services from FCP coverage.

In concurrent decision no. FCP-174284, I ordered the agency to restore petitioner's level of care to nursing home. Thus petitioner remains eligible for the services at issue in this appeal.

CONCLUSIONS OF LAW

Petitioner remains eligible for the services at issue in this appeal because she continues to meet the nursing home level of care.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to restore petitioner's eligibility for day care services, supportive home care services, and non-medical transportation pursuant to the finding that she remains FCP eligible at the nursing home level of care. The agency shall do so within 10 days of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 9th day of June, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 9, 2016.

MY Choice Family Care
Office of Family Care Expansion
Health Care Access and Accountability